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WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

UNITED STATES OF AMERICA

CRIMINAL ACTION NO.: 04-60067

VERSUS

JUDGE DOHERTY

TERRENCE BENOIT

MAGISTRATE JUDGE METHVIN

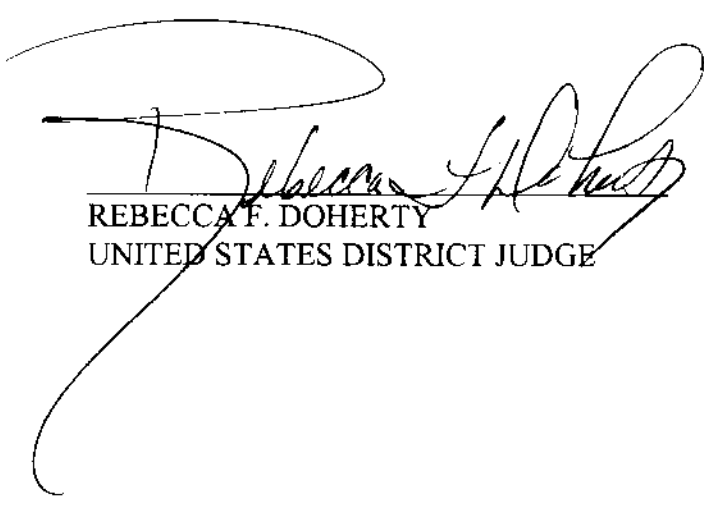
**RULING ON MOTION TO DISMISS**

This matter was referred to United States Magistrate Judge Mildred E. Methvin for her Findings and Recommendation. After an independent review of the record and considering the objections filed, this Court concludes that the Findings and Recommendation of the magistrate judge are correct and this Court adopts the conclusions set forth therein. However, the Court would add to the magistrate's analysis at p. 8, first full paragraph, the case of U.S. v. \$64,000.00 in U.S. Currency, 722 F.2d 239, 244 (5<sup>th</sup> Cir. 1984) (a criminal forfeiture case), wherein the Court stated, "The officer need not have the [arrest] warrant in his possession, though 'upon request' he shall show it to the defendant 'as soon as possible.' Fed.R.Crim.P. 4(d)(3). Here, there is no evidence of such a request. Moreover, failure to comply with Rule 4(d)(3) is not ordinarily grounds for suppression." Additionally, the Court would add to the magistrate's analysis at p. 9, third full paragraph, the case of U.S. v. Dean, 100 F.3d 19, 21 (5<sup>th</sup> Cir. 1996) wherein the Court stated, "Evidentiary hearings are not granted as a matter of course; such a hearing is required only if any disputed material facts are 'necessary to the decision of the motion.' Factual allegations in the defendant's motion must be 'sufficiently definite, specific, detailed, and nonconjectural, to enable the court to conclude that a substantial claim is presented.' (Citations omitted.)

Accordingly, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Terrence

Benoit's motion to dismiss is DENIED.

THUS DONE AND SIGNED in Chambers, Lafayette, Louisiana, this 6 day of February, 2006.



REBECCA F. DOHERTY  
UNITED STATES DISTRICT JUDGE